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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIO MIRAMONTES; CIRA
EUSEBIA FUENTES,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-74650

Agency Nos. A076-857-854
A076-857-855

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 13, 2009**

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Mario Miramontes and Cira Eusebia Fuentes, husband and wife and natives
and citizens of Mexico, petition for review of the Board of Immigration Appeals'

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

(“BIA”) order dismissing their appeal from an immigration judge’s (“IJ”) removal order. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo due process claims, *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001), and we grant the petition for review and remand for further proceedings.

We conclude that the IJ’s rescission of her order granting petitioners’ motion to reopen may have prejudiced petitioners because the record contains multiple forms of objective evidence that petitioners have continuously resided in the United States since 1988. As the BIA erred in determining that petitioners failed to file such objective evidence, *see generally Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 854 (9th Cir. 2004), we remand for reconsideration of petitioners’ appeal, *see INS v. Ventura*, 537 U.S. 12, 16-17 (2002) (per curiam).

PETITION FOR REVIEW GRANTED; REMANDED.